

United States
Circuit Court of Appeals

For the Ninth Circuit.

TATSUMI MASUDA, or TAKASHI MASUDA,
or MASUDA TATSUMI,

Appellant,

vs.

JOHN D. NAGLE, as Commissioner of Immigra-
tion at the Port of San Francisco, California,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the
Northern District of California,
Southern Division.

FILED

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PAUL F. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For Petitioner and Appellant:

RUSSELL W. CANTRELL, Esq., and GUY C.
CALDEN, Esq., Flatiron Bldg., San Fran-
cisco, Calif.

For Respondent and Appellee:

UNITED STATES ATTORNEY, San Fran-
cisco, Calif.

In the Southern Division of the United States Dis-
trict Court in and for the Northern District of
California, Second Division.

No. 20,449-S.

MASUDA TATSUMI, or TATSUMI or TAKA-
SHI MASUDA,

Petitioner,

vs.

JOHN D. NAGLE, Commissioner of Immigration,
Respondent.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable United States District Judge,
Now Presiding in the Above-entitled Court:

The petition of MASUDA TATSUMI, or TAT-
SUMI, or TAKASHI MASUDA, whose true name
is TATSUMI MASUDA, respectfully represents:

I.

That your petitioner is imprisoned, detained and restrained of his liberty, and is in the custody of the above-named respondent, the Honorable JOHN D. NAGLE, Commissioner of Immigration, in and for the District of San Francisco, within the Northern District of California, under and pursuant to a warrant of deportation issued under and by authority of the Secretary of Labor commending the deportation of your petitioner to the country whence he came, to wit: the Empire of Japan, which said order of deportation was issued by the said Secretary of Labor without authority in law, and in violation of the laws of the United States of America, and of the treaty now existing between the United States of America and the Empire of Japan, as shall hereinafter more fully appear. [1*]

II.

That the cause or pretense for such imprisonment and detention is based upon the following facts and circumstances:

That your petitioner is an alien, to wit, a subject of the Empire of Japan, and was, on the 13th day of July, 1928, under and pursuant to the provisions of subdivision 2 of section 3 of the Immigration Act of 1924, lawfully admitted into the United States, by the immigration authorities, at the port of San Francisco, as a temporary visitor, for a period not to exceed six (6) months, for the purpose of inspecting Sunday schools conducted within the State

*Page-number appearing at the foot of page of original certified Transcript of Record.

of California, with a view of your petitioner using the knowledge and experience so gained in improving the Buddhist Sunday schools conducted in the Empire of Japan.

III.

That from and after the date of the admission of your petitioner into the United States, as aforesaid, and until on or about the first day of March, 1929, your petitioner was engaged in fulfilling the purposes of such temporary visit to the United States; that your petitioner, during all of said times having intended, and intending, in good faith, upon the termination of said period of temporary admission into the United States, as aforesaid, to return to the country whence he came, to wit: the Empire of Japan.

IV.

That on or about the first day of March, 1929, your petitioner was employed as a bookkeeper by Z. INOUE, who, during all of the times herein mentioned, has been, and is now, pursuant to, and under the authority of the provisions of section 1 of the Treaty of Commerce and Navigation, entered into between the United States of America, and the Empire of [2] Japan, on the 21st day of February, 1911, a treaty trader or merchant, and thereafter, and on or about the first day of May, 1929, the said Z. INOUE, under and pursuant to, and by authority of the said treaty, appointed and employed your petitioner as the manager of the said business of the said Z. INOUE, and your petitioner ever since has been, and is now the ac-

tual manager of the said business of the said Z. INOUYE, and ever since has been, and is now, in full charge of the management and conduct of the said business.

V.

That continuously for more than fifteen (15) years immediately prior the said first day of May, 1929, the said Z. INOUYE conducted and maintained, and is now conducting and maintaining, in the City of Sacramento, in the said Northern District of California, under the fictitious name of Z. INOUYE & CO., his said business, to wit: an import and export business; that said Z. INOUYE has a capital investment, in said business, approximating Fifty-five Thousand and no/100 (\$55,000.00) Dollars; that the said Z. INOUYE & CO. pays an annual customs at the port of San Francisco, approximating Ten Thousand and no/100 (\$10,000.00) Dollars per annum, on goods, wares and merchandise imported from the Empire of Japan, and that the said Z. INOUYE & CO. sells and disposes, during each calendar year, goods, wares and merchandise in the approximate amount of Eighty Thousand and no/100 (\$80,000.00) Dollars.

VI.

That for some time last past, the said Z. INOUYE, the proprietor of the said business so conducted by him under the fictitious name of Z. INOUYE & CO. has been, and is now, absent from the State of California, to wit: in the Empire of [3] Japan, and during the entire period of such

absence the said Z. INOUYE has placed under the exclusive management of your petitioner, the management and conduct of the said business of the said Z. INOUYE, and your petitioner ever since has been, and is now, in full management and control of said business for and on behalf of his said employer, to wit: the said Z. INOUYE.

VII.

That under and by virtue of the provisions of section 1 of the said treaty so entered into, and now existing between the United States of America, and the Empire of Japan, the said Z. INOUYE, as such treaty trader, is authorized and empowered to employ such agents of his choice as may be incidental to, or necessary for, the more proper conduct and management of his said business, and in this connection your petitioner alleges:

That the said Z. INOUYE, as such treaty trader, and pursuant to, and under, and by virtue of the authority of the said provisions of the said treaty, did employ, and ever since has employed, and does now employ, your petitioner as such agent and manager of the said business of the said Z. INOUYE so located, conducted and maintained, as aforesaid, and that the supervision by your petitioner of the said business of the said Z. INOUYE, as such agent and manager thereof, and more especially during the absence from the State of California, of the said Z. INOUYE, is necessary and proper for the more efficient management and conduct of the said business, and for the more efficient conduct and carrying on of the said business

of the said Z. INOUYE, as such treaty trader, and for the more efficient carrying on for trade, or commerce, by the said Z. INOUYE, under and by [4] authority of the said treaty.

VIII.

That heretofore, and under and by virtue of a warrant of arrest issued by the Assistant to the Secretary of Labor, dated the 18th day of July, 1930, a copy whereof is hereunto annexed, marked Exhibit "A," and made a part hereof as if fully and at length set forth herein, your petitioner was taken into custody by the Commissioner of Immigration at the Angel Island Station, in the Northern District of California, for the reason, as alleged in said warrant of arrest, that your petitioner had remained in the United States for a longer period than permitted under the provisions of subdivision 2 of section 3 of the Immigration Act of 1924, and the rules and regulations of the Secretary of Labor made thereunder.

That subsequent thereto, and on the 28th day of August, 1930, your petitioner was duly granted a hearing, and was duly examined under and pursuant to the said warrant of arrest before Immigration Inspector, at the Angel Island Station, to enable your petitioner to show cause why your petitioner should not be deported from the United States in conformity with law.

Annexed hereto and marked Exhibit "B," and made a part hereof as if fully and at length set forth herein, is a transcript of the testimony taken at such hearing, together with the findings and con-

clusions of the said Examining Officer, and the recommendations of the said Examining Officer in the premises.

That at the close of the said hearing before the said Immigration Inspector, as aforesaid, the full record of said hearing, together with the findings and conclusions [5] of the said Examining Officer, and the recommendations of the said Examining Officer in the premises, were forwarded, as provided by law, to the Secretary of Labor, at Washington, D. C., for his decision as to whether or not a warrant of deportation should issue in the premises.

That thereafter, and on the 3d day of November, 1930, upon the full record thus submitted to the Secretary of Labor, by the said Examining Officer, as aforesaid, and from the proofs thus submitted to the said Secretary of Labor, in the premises, as aforesaid, the said Secretary of Labor did issue, as of said date, his warrant of deportation in the premises, a copy of which is hereunto annexed, marked Exhibit "C," and made a part hereof as if fully and at length set forth herein, wherein and whereby the said Secretary of Labor, by virtue of the alleged power and authority vested in him by the laws of the United States, did command the above-named respondent to return your petitioner to the country whence he came, to wit: to the Empire of Japan, for the reason set forth in said warrant of deportation, to wit; that your petitioner has remained in the United States for a longer time than permitted under the Immigration

Act of 1924, or regulations made thereunder, and that under and pursuant, and by virtue of said warrant of deportation, your petitioner is now in the custody of said respondent.

III.

That the restraint and imprisonment of your petitioner are illegal, and that the illegality thereof consists in this:

First: That the said decision of the said Secretary of Labor, from the proofs so submitted to him on the said record so transmitted to him, as aforesaid, that your [6] petitioner is in the United States in violation of the Immigration Act of 1924, is erroneous in law, and that said decision of said Secretary of Labor is incorrect as a matter of law, in that the said Secretary of Labor has misconstrued the provisions of the herein referred to treaty, and the provisions of the Immigration Act of 1924.

Second: That the said warrant of deportation, dated the said 3d day of November, 1930, wherein and whereby the above-named respondent is commanded to return your petitioner to the country whence he came, to wit: to the Empire of Japan, is illegal and void, and the said Secretary of Labor is without jurisdiction, under the laws of the United States, to issue such warrant of deportation.

Third: That your petitioner is not imprisoned or restrained by virtue of any final order or process, or decree of any Court.

Fourth: That your petitioner is entitled to a treaty trader status under and by virtue of section

3, subdivision 6 of the Immigration Act of 1924, and under and by authority of Article 1 of the Treaty of Commerce and Navigation entered into between the United States of America, and the Empire of Japan, on the 21st day of February, 1911.

Fifth: That under and by authority of the provisions of the said treaty, and of the said Immigration Act of 1924, your petitioner, while lawfully within the United States, had the legal right, pursuant to the laws of the United States, and of the said treaty, to, in good faith, change his status from a temporary visitor, under the provisions of subdivision 2 of section 3 of the Immigration Act of 1924, to the temporary status of a treaty trader, [7] Under and pursuant to the provisions of subdivision 6 of section 3 of the Immigration Act of 1924, and to continue to lawfully reside within the United States during the period that your petitioner maintains, and continues to maintain, such temporary status as a treaty trader.

Sixth: That your petitioner has not by thus changing, in good faith, his status from such temporary visitor to a treaty trader, violated any laws of the United States, and in consequence the Secretary of Labor is without authority, under the laws of the United States, to order the deportation, or deport, your petitioner, because of such change of status.

WHEREFORE, your petitioner prays that a writ of habeas corpus issue herein, and that after due hearing thereon a writ may be issued, dis-

charging your petitioner from the custody of the respondent, the Honorable JOHN D. NAGLE, Commissioner of Immigration, and that an order to show cause be issued forthwith, ordering that the said respondent, the said Honorable JOHN D. NAGLE, Commissioner of Immigration, be and appear before this court on the 15th day of December, 1930, at the hour of 10 o'clock A. M. of said day, at the courtroom of said court, located in the Post Office Building, in the City and County of San Francisco, State of California, to show cause, if any he has, why a writ of habeas corpus should not be issued as herein prayed for, and that a copy of this petition, and said order, be served upon the said respondent, and upon the United States Attorney in and for the Northern District of California, and for such other and further relief as may be meet and proper in the premises.

TATSUMI MASUDA.

GUY C. CALDEN,
R. W. CANTRELL,

Attorneys for Petitioner. [8]

State of California,
City and County of San Francisco,—ss.

Tatsumi Masuda, being first duly sworn, deposes and says:

That he is the petitioner named in the above-entitled petition; that he has *head* read and had translated to him, the foregoing petition, and knows the contents thereof, and that the same is true of his own knowledge except as to the matters therein

stated on his information or belief, and as to those matters, he believes it to be true.

TATSUMI MASUDA.

Subscribed and sworn to before me this 5th day of December, 1930.

[Seal]

MARY PALMER,
Notary Public in and for the City and County of
San Francisco, State of California. [9]

EXHIBIT "A."

DEPARTMENT OF LABOR,
Washington.

No. 55706/825.

To Commissioner of Immigration, Angel Island Station, San Francisco, California, or to Any Immigrant Inspector in the Service of the United States.

WHEREAS, from evidence submitted to me, it appears that the alien TATSUMI or TAKASHI MASUDA, who landed at the Port of San Francisco, California, on the 13th day of July, 1928, has been found in the United States in violation of the immigration act of May 26, 1924, for the following among other reasons:

That he has remained in the United States for a longer time than permitted under the said Act or regulations made thereunder.

I, P. F. SNYDER, Assistant to the Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to take into custody the said alien and grant him a hearing to enable him to show cause

why he should not be deported in conformity with law.

The expenses of detention hereunder, if necessary, are authorized, payable from the appropriation "Expenses of Regulating Immigration, 1931." Pending further proceedings the alien may be released from custody under bond in the sum of \$1,000.

For so doing, this shall be your sufficient warrant.

Witness my hand and seal this 18th day of July, 1930.

P. F. SNYDER,
Assistant to the Secretary of Labor. [10]

EXHIBIT "B."

U. S. DEPARTMENT OF LABOR,
Immigration Service.

File No. 12020/17502.

REPORT OF HEARING in the Case of MASUDA
TATSUMI, or TATSUMI or TAKASHI
MASUDA.

Under Department Warrant No. 55708/825.

Dated July 18, 1930.

Hearing conducted by Inspector J. W. Howell, at
San Francisco, California. Date, Aug. 28,
1930.

Alien taken into custody at San Francisco, Cali-
(Place)
fornia August 28, 1930, at 10:00 A. M., by Inspector
(Date and hour) .

J. W. Howell, and released from custody under
bond in the sum of \$1,000.00. (State if released on
own recognizance or bail; or if detained, where.)

Testimony taken and transcribed by Clerk R. H. Rule.

Said alien being unable to speak and understand the English language satisfactorily, an interpreter, named Mrs. E. J. Austin, competent in the Japanese language, was employed, she being an official Japanese Interpreter. (If other than regular Government employee, state as to being first duly sworn.)

Said alien was informed that the purpose of said hearing was to afford him an opportunity to show cause why he should not be deported to the country whence he came, said warrant of arrest being read and each and every allegation therein contained carefully explained to him. Said alien was offered an opportunity to inspect the warrant of arrest and the evidence upon which it was issued, which privilege was accepted. The alien being first duly sworn _____, the following evidence

(If not sworn, state reason)

was presented:

Q. What is your correct name?

A. MASUDA TATSUMI.

Q. Have you ever been known by another name?

A. Tatsumi, or Takashi Masuda.

Q. You are advised that under these proceedings you have the right to be represented by counsel. Do you desire to obtain the services of a lawyer?

A. I am represented by attorneys Guy C. Calden, and M. E. Mitchell.

Q. The record shows that attorneys Guy C. Calden and M. E. Mitchell have filed letters that they

are to represent you in this matter. Is that correct? A. Yes. [11]

EXAMINING OFFICER to Attorneys CALDEN and MITCHELL: Are you ready and willing to proceed with this hearing?

By Attorney CALDEN: Yes.

(EXAMINING OFFICER to ALIEN:)

Q. What is your age and date of birth?

A. Twenty-five years, born Meiji 38, 1905 (February 1, 1905).

Q. What has been your occupation?

A. Manager of an importing company in Sacramento, the Z. Inouye Company, of 1025 Front St., Sacramento, California.

Q. What is the nature of that business?

A. Importers and exporters of provisions and drugs.

Q. How long have you been manager of that concern?

A. From a year ago in March, since March, 1929.

Q. Have you any money invested in that firm?

A. No.

Q. What salary do you receive?

A. \$115.00 a month.

Q. Have you any evidence to present that you are actually the Manager of that concern?

A. Yes, I have some drafts with me with my signature, which will identify me.

Q. Is this a partnership or a corporation?

A. It is one person only.

Q. Where is Mr. Inouye now? A. In Japan.

Q. Have you any evidence to offer that you are

actually the Manager of this concern except what you have referred to?

A. I have a *person* letter written in the Japanese language but I have not got that with me.

Q. When were you engaged as Manager of this firm? A. In May, 1929.

Q. Was Mr. Inouye in the United States at that time? A. Yes.

Q. Are you still the Manager of that concern?

A. Yes.

Q. Do the books of the concern show that you are the Manager? A. Yes.

Q. Have you got the books with you? A. No.

Q. What is the capital of this concern?

A. \$55,000.00.

Q. How much stock have you on hand?

A. About \$12,000.00.

Q. How much money have you in the bank?

A. \$4,000.00.

Q. Are you permitted to draw money from the bank as the manager of that concern? A. Yes.

Q. When and where did you enter the United States?

A. At San Francisco, California, in July, 1928, on the SS. "Tenyo Maru,"

Q. Under what status were you admitted?

A. As a Sunday School Teacher. [12]

Q. For how long were you admitted?

A. I lost my passport so I don't know for how long it was but *it* think it was for one year.

Q. Since your admission did you ever apply for an extension of stay in this country? A. No.

NOTE BY EXAMINING INSPECTOR: Alien is identified by San Francisco File No. 27010/22-27, which shows that he was admitted at this port ex SS. "Tenyo Maru," July 13, 1928, for a period of six months, as a visitor.

Q. What kind of work did you do in July or August, 1928?

I was visiting Buddhist Sunday Schools.

Q. Do you know of a camp called the Tagami Camp in Sacramento County?

A. He is a friend of mine.

Q. Did you not pick grapes at Mills, California, during July and August? A. No.

Q. What did you do after July and August, 1928?

A. I was a teacher for the Buddhist School in Sacramento, California.

Q. Why did you leave that school?

A. Because I wanted to study English.

Q. Isn't it a fact that you were forced to leave that school because you got involved there with some women?

A. There was an affair there with a woman but that was not the reason that I left the school. I gave my resignation to the school.

Q. Were you asked to resign?

A. I made the resignation myself. I was not asked to resign.

Q. Is it not a fact that you have worked as a bookkeeper for Z. Inouye & Company at 1025 Front Street, Sacramento, California, and that you are not really the Manager?

A. I am both bookkeeper and the Manager.

EXAMINING OFFICER to Attorneys MITCHELL and CALDEN: Do you wish to question the alien?

(Attorney CALDEN to ALIEN:)

Q. You have testified that you are employed by Z. Inouye & Company? A. Yes.

Q. Who is the owner of the Z. Inouye Company.

A. Mr. Inouye.

Q. Of what nationality is he? A. Japanese.

Q. You testified that you entered his employ in 1929, in May, 1929?

A. I first went to work in March.

Q. In what capacity were you employed in March?

A. As bookkeeper.

Q. When were you appointed Manager?

A. In May.

Q. What year? A. 1929.

Q. Are you now the bookkeeper and Manager?

A. Yes.

Q. Does this firm import many goods?

A. Yes, from Japan. [13]

Q. Could you say about what their gross sales are a year? A. About eight thousand dollars.

Q. Do you know what duties they pay to the Customs House?

A. About ten thousand or more per year.

Q. Who first employed you?

A. Mr. Inouye himself.

Q. And the firm is engaged in trading?

A. Yes.

Q. I will show you several drafts here, all of which contain a signature. Is that your signature?

A. Yes.

Q. How did you happen to sign these drafts, in what capacity? A. As manager.

Q. When is Mr. Inouye going to return from Japan? A. I don't know.

Q. You are the sole manager of the business now for Mr. Inouye? A. Yes.

Q. How often has Mr. Inouye gone to Japan since you have been Manager? A. Two trips.
(Attorney MITCHELL to ALIEN.)

Q. What was your purpose in coming to the United States?

A. To inspect the Sunday schools.

Q. Why did you wish to inspect the Buddhist Sunday schools in this country?

A. To improve the Sunday schools in Japan.

Q. Have the Buddhist Sunday schools in the United States developed to a point where you could learn something so as to improve the Buddhist Sunday schools in Japan? A. Yes.

Q. Who assisted you in obtaining the passport and visa which enabled you to come to the United States?

A. The Buddhist Temple, the Ko Sho Ji Buddhist Temple.

Q. How long have you been connected with the Buddhist Church altogether?

A. About a year and a half.

Q. In what capacity?

A. I was studying and helping with them.

Q. Did you ever contemplate becoming a Buddhist Priest? A. Yes.

Q. Then I understand that you came here solely because of your connection and desire to assist the Buddhist Church? A. Yes.

Q. Were you ever a merchant in Japan?

A. I took economics in school was all.

Q. At the time you came to the United States did you anticipate or contemplate becoming a merchant?

A. No.

Q. Did you know Z. Inouye at that time?

A. No.

Q. When did you first meet Z. Inouye?

A. In the first part of January, 1929. [14]

Q. Do you know why Inouye employed you as a bookkeeper and later as manager?

A. A fellow named Tonita in Sacramento was a friend of mine and he recommended me.

Q. When you were landed as a temporary visitor did you expect to return to Japan? A. Yes.

Q. Why did you change your mind?

A. Mr. Inouye asked me to help him two or three months and so I did so.

Q. Why did you stay longer?

A. Because Mr. Inouye is in Japan and has not returned.

Q. Are you engaged in any other occupation or pursuit other than carrying on the business of the Z. Inouye Company?

A. Only as a Sunday school teacher in Sacramento.

Q. Was that the Church you were originally associated with? A. No.

Q. During week days are you continuously en-

gaged in carrying on the business of the Z. Inouye Company? A. Yes.

Q. Do you perform any work or labor of any kind other than carrying on the business of that company? A. No.

(EXAMINING OFFICER to ALIEN.)

Q. At this juncture there is incorporated and made a part of the record a statement made by yourself before Inspector F. O. Seidle at Sacramento, California, on July 17, 1930. In reference to said statement I desire to quote therefrom the following question and answer: "Question: Did you understand that it would be unlawful for you to engage in any employment in view of the fact that you had been admitted to the United States as a visitor? Answer: Yes, I knew it was unlawful." At the time of your arrival at this port on the "Tenyo Maru" July 6, 1928, you appeared before a Board of Special Inquiry at Angel Island, California, and presented, among other things, a certificate which reads as follows: "Kyoto 7th of April, 1928, Teacher of Buddhist Sunday school Mr. Tatsumi Masuda, age 23 years 4 months, we delegate the above person to the United States of America for the six months in order to inspect our Sunday School for which we hereby certify." Signed Kosho Ji Buddhist Sunday School, Koshyi Sect Provost Hasui Aoki. At that time you were asked this question: "Have you any intention of remaining in the United States permanently?" Answer "no." "I have to return to Japan." What explanation have you to offer now or what is your pur-

pose at this time in regard to remaining in this country?

A. I said I did not intend to stay at that time. I have to stay until Mr. Inouye returns.

Q. Is there any intention of your remaining in this country or attempting to remain in this country now as a trader? A. Yes, as a trader.

Q. What explanation have you to offer for not returning to Japan as originally indicated in your examination at the time of your arrival?

A. I had intended to return but Mr. Inouye had put the responsibility of the firm in my hands so I could not return. [15]

Q. Have you abandoned your idea of returning to Japan?

A. I have become interested in the commercial world and I would like to follow that here in America.

Q. Is Mr. Inouye related to you in any way?

A. No.

(Attorney MITCHELL to ALIEN.)

Q. Do you receive any compensation from the Inouye Company other than your salary, \$115 per month?

A. I receive thirty per cent of the net profits.

Q. Is that paid you as the Manager of the Company? A. Yes.

Q. Are there any employees of this company other than yourself? A. Yes, three.

Q. Are these employees under your direction?

A. Yes.

Q. How long has the Z. Inouye Company been in business in Sacramento altogether?

A. About 15 years continuously.

(EXAMINING OFFICER to Attorneys MITCHELL and CALDEN.)

Q. Do you desire to present any witnesses or evidence in the alien's behalf?

A. No. But if Inouye was here we would present him as a witness. He (the alien) has a mass of documentary evidence in support of his claim that he is the manager of the Z. Inouye Company and that the Z. Inouye Company is a mercantile firm engaged in international trade.

Q. Will you file a brief or argument in this case?

A. Yes.

Q. You will be furnished a copy of this transcript, together with a summary, and will be allowed ten days to file a brief, in duplicate, from receipt of the transcript, and at that time the record will be submitted to the Secretary of Labor for final consideration.

NOTE: Alien advised of the penalty for entering the United States unlawfully after having been arrested and deported.

PERSONAL DESCRIPTION OF ALIEN: 5' 2½"; weight about 130 lbs.; black hair; brown eyes; oval face; medium mouth; flat nose; scar in eyebrow over left eye.

SUMMARY: This alien is a male, aged 25 years, single, occupation, bookkeeper and Manager, of the Japanese race, born in Japan, and last entered this

country at this port ex SS. "Tenyo Maru," on July 6, 1928, and was admitted by a Board of Special Inquiry for six months only. See local immigration file No. 27010/22-27.

The alien has not applied for extension of stay, and has abandoned the purpose for which he was originally granted permission to enter this country, viz.: "to inspect Buddhist Sunday schools in this country."

He claims to be now employed as a bookkeeper and Manager of the Z. Inouye Company, 1025 Front Street, Sacramento, California, a firm engaged in the importation and [16] exportation of merchandise, provisions and drugs.

He claims to have become the Manager of said firm in March, 1929, and to have held said position continuously since.

RECOMMENDATION: The charge contained in the warrant is believed to have been sustained.

It is therefore recommended that he be deported to Japan.

J. W. HOWELL,
Immigrant Inspector.

I certify that the foregoing is a true and correct transcript of the record of hearing in this case.

R. H. RULE,
Stenographer. [17]

EXHIBIT "C."

Form 8 B.

Bureau of Immigration.

No. 12020-17502.

No. 55708/825

WARRANT—DEPORTATION OF ALIEN.

UNITED STATES OF AMERICA,

Department of Labor,

Washington.

To Commissioner of Immigration, Angel Island Station, San Francisco, California, or to Any Officer or Employee of the United States Immigration Service.

WHEREAS, from proofs submitted to me, Assistant to the Secretary, after due hearing before Immigrant Inspector J. W. Howell, held at San Francisco, Calif. I have become satisfied that the alien, TAKSUMI, or TAKASHI MASUDA *alias* MASUDA TATSUMI, who landed at the port of San Francisco, California, ex S.S. "TENYO MARU," on the 13th day of July, 1928, has been found in the United States in violation of the immigration act of May 26th, 1924, to-wit: That he has remained in the United States for a longer time than permitted under the said act or regulations made thereunder, and may be deported in accordance therewith:

I, W. N. SMELSER, Assistant to the Secretary of Labor, by virtue of the power and authority vested in me by the laws of the United States, do hereby command you to return the said alien to

Japan, the country whence he came, at the expense of the appropriation "Expenses of Regulating Immigration, 1931," including the expenses of an attendant, if necessary. Delivery of the alien and acceptance for deportation will serve to cancel the outstanding appearance bond.

For so doing, this shall be your sufficient warrant.

WITNESS my hand and seal this 3rd day of November, 1930.

(Sg) W. N. SMELSER,
Assistant to the Secretary of Labor.

[Endorsed]: Filed Dec. 5, 1930. [18]

[Title of Court and Cause.]

ORDER TO SHOW CAUSE.

Good cause appearing therefor, and upon reading the verified petition on file herein,—

IT IS HEREBY ORDERED that John D. Nagle, Commissioner of Immigration for the Port of San Francisco, appear before this court on the 15th day of December, 1930, at the hour of ten o'clock A. M. of said day, to show cause, if any he has, why a writ of habeas corpus should not be issued herein, as prayed for, and that a copy of the petition and said order be served upon the United States Attorney for this District, his representative herein.

AND IT IS FURTHER ORDERED that the said John D. Nagle, Commissioner of Immigration, as aforesaid, or whoever, acting under the orders

of the said Commissioner, or the Secretary of Labor, shall have the custody of the said Masuda Tatsumi, or Tatsumi or Takashi Masuda, or the Master of any steamer upon which he may have been placed for deportation by the said Commissioner, are hereby ordered and directed to retain the said Masuda Tatsumi, or Tatsumi, or Takashi Masuda, within the custody of the said Commissioner of Immigration, and within the jurisdiction of this court until its further order herein.

Dated at San Francisco, California, Dec. 6th, 1930.

ST. SURE,
United States District Judge. [19]

[Endorsed]: Filed Dec. 6, 1930. [20]

[Title of Court and Cause.]

APPEARANCE OF RESPONDENT.

Respondent hereby *appear* through the undersigned attorney and files herewith as Respondent's Exhibit "A" the original certified record of immigration proceedings before the Bureau of Immigration and Department of Labor relative to the above-named petitioner.

GEO. J. HATFIELD. (Signed)
GEO. J. HATFIELD,
United States Attorney,
Attorney for Respondent.

[Endorsed]: Filed Jan. 19, 1931. [21]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 19th day of January, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable A. F. ST. SURE, District Judge, et al.

[Title of Court and Cause.]

MINUTES OF COURT—JANUARY 19, 1931—
ORDER SUBMITTING APPLICATION
FOR WRIT OF HABEAS CORPUS.

The application for writ of habeas corpus (by order to show cause) came on to be heard. R. W. Cantrell, Esq., appearing as attorney for petitioner, and H. A. van der Zee, Esq., Asst. U. S. Atty., appearing as attorney for respondent. Mr. van der Zee filed the appearance of the respondent and the Record of the Bureau of Immigration. After hearing the attorneys, IT IS ORDERED that said application be submitted upon the filing of briefs in 10 and 5 days. [22]

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the courtroom thereof, in the City and County of San Francisco, on Monday, the 16th day of February, in the year of our Lord one thousand nine hundred and thirty-one. Present: The Honorable A. F. ST. SURE, District Judge, et al.

[Title of Court and Cause.]

MINUTES OF COURT—FEBRUARY 16, 1931—
ORDER RE APPLICATION FOR WRIT
OF HABEAS CORPUS.

On motion of H. A. van der Zee, Esq., Asst. U. S. Atty., IT IS ORDERED that the application for writ of habeas corpus herein stand submitted for consideration and decision. [23]

[Title of Court and Cause.]

OPINION.

GUY C. CALDEN, Esq., RUSSELL W. CANTRELL, Esq., Attorneys for Petitioner, San Francisco, California.

GEORGE J. HATFIELD, Esq., U. S. Attorney, Attorney for Respondent, San Francisco, California.

ST. SURE, D. J.—Petitioner, a subject of Japan, was, on July 13, 1928, admitted to the

United States at the port of San Francisco under subdivision 2 of Section 3 of the Immigration Act of 1924 as a temporary visitor for a period not to exceed six months, for the purpose of inspecting a Buddhist Sunday School. The Ko Sho Ji Buddhist Temple in Japan assisted him in obtaining his passport, and upon arrival here he claimed to be a Buddhist preacher, and testified that he contemplated becoming a Buddhist priest. He presented a certificate reading as follows:

“Koyoto 7th of April, 1928, Teacher of Buddhist Sunday School Mr. Tatsumi Masuda, age 23 years 4 months, we delegate the above person to the United States of America for the six months in order to inspect our Sunday School for which we hereby certify.”

Signed: Kosho Ji Buddhist Sunday School,
Koshi Sect Provost Hasui Aoki.

Almost two months after the expiration of his six months' stay, about March 1, 1929, he became engaged as a bookkeeper by Z. Inouye, a treaty trader in the import and export business. Petitioner claims that he became the manager of this business about May 1, 1929.

On July 18, 1930, petitioner was taken into custody by the Commissioner of Immigration for the reason that he had [24] remained in the United States for a longer period than permitted under the provisions of subdivision 2 of section 3 of the Immigration Act of 1924. On August 28, 1930, he was granted a hearing to enable him to show cause why he should not be deported. The record and

findings of this hearing were forwarded to the Secretary of Labor at Washington, D. C., and on November 3, 1930, the Secretary of Labor issued a warrant of deportation, upon the ground that petitioner had remained in this country for a longer time than permitted under the Immigration Act.

Petitioner claims that he is entitled to a treaty trader status by virtue of subdivision 6 of section 3 of the Immigration Act, and under Article I of the Treaty of Commerce and Navigation between United States and Japan dated February 21, 1911; that he had a right, while lawfully within the United States, to change his status from that of a temporary visitor to that of a treaty trader; that even though his alleged change of status did not take place until almost four months after the expiration of his six months' stay, it was timely because made before the institution of deportation proceedings.

In stressing claimed rights under the treaty with Japan petitioner relies upon *Metaxis vs. Weedin*, No. 5947, Ninth Circuit, May 26, 1930. The facts there were entirely different from those in the instant case. *Metaxis*, a subject of Greece, was admitted to the United States as a visitor on February 11, 1924, for a period of six months, and immediately entered into a partnership with his brother in mercantile business. *Metaxis'* admission was under the Quota Act of 1921 as amended in 1922 (42 Stat. 540), and it was under the provisions of that Act and a supposed treaty with Greece that the Circuit Court held him to be permitted to re-

main in this country. On rehearing, however, the Government called the Court's attention [25] to the fact that the treaty with Greece had been abrogated, thus presenting an entirely different situation, whereupon the Court held that Metaxis should be deported, 44 Fed. (2d) 539. Since the entry of Metaxis in February, 1924, the law has been changed, and we now have the Immigration Act of May 26, 1924, which provides that any alien who remains longer than the time permitted by the Act and regulations thereunder shall be taken into custody and deported.

Petitioner contends that he was lawfully within the United States at the time that he changed his status, when, as a matter of fact, his stay here was unlawful. The time of his temporary permit had expired, and under such circumstances attempting to take on the status of a treaty trader would avail him nothing. He applied for and obtained temporary admission under the immigration laws as an alien otherwise inadmissible. He entered into a solemn obligation with the authorities representing the United States Government to depart within six months. At the expiration of that period his stay within the United States was unlawful, and he states he knew it was unlawful. Section 14 of the Immigration Act of 1924 (8 U. S. C. A., Sec. 214) provides that any alien who remains longer than the time permitted by the Act and regulations thereunder "shall be taken into custody and deported." Under all the authorities an alien gains no rights by an occupation entered into while un-

lawfully in the country. *Sugimoto vs. Nagle*, 38 Fed. (2d) 207, *certiorari* denied, 281 U. S. 745; *Wong Gar Wah vs. Carr*, 18 Fed. (2d) 250; *Wong Mon Lun vs. Nagle*, 39 Fed. (2d) 844; *Wong Fat Sheun vs. Nagle*, 7 Fed. (2d) 611; *Ewing Yuen vs. Johnson*, 299 Fed. 604; *In re Low Yin*, 13 Fed. (2d) 265.

Petitioner suggests that should he be deported, he might thereafter be admitted as a treaty trader under the provisions of the treaty and the Act of 1924, and therefore the law should be construed to fit his case. But the express provision of [26] the Act will admit of no such construction. Furthermore, what petitioner's rights would be on attempting to re-enter is not now before the court. *Marty vs. Nagle*, 44 Fed. (2d) 695. There may be some hardship involved in petitioner's deportation under the circumstances, but, as was said by Judge Wilbur in *Sugimoto vs. Nagle*, 38 Fed. (2d) 207, 209, these considerations are properly directed to the legislative rather than to the judicial branch of the Government.

The application for a writ of habeas corpus will be denied, and the petition dismissed.

Dated: May 8, 1931.

[Endorsed]: Filed May 8, 1931, 12:25 P. M.
[27]

[Title of Court and Cause.]

ORDER DENYING APPLICATION FOR
WRIT OF HABEAS CORPUS, ETC.

This matter having been heard on the application for a writ of habeas corpus (by order to show cause), and having been argued and submitted,

IT IS ORDERED, after a full consideration, that the application for a writ of habeas corpus be, and the same is hereby DENIED; that the petition be, and the same is hereby DISMISSED; that the order to show cause be, and the same is hereby DISCHARGED; and that the petitioner be, and he is hereby remanded to the custody of the United States Immigration Authorities at San Francisco, California, for DEPORTATION.

Dated: May 8, 1931.

A. F. ST. SURE,
U. S. District Judge.

[Endorsed]: Filed May 8, 1931, 12:26 P. M.
[28]

[Title of Court and Cause.]

PETITION FOR APPEAL.

Now comes Masuda Tatsumi, or Tatsumi, or Takashi Masuda, whose true name is Tatsumi Masuda, the petitioner and appellant herein, and says:

That on the 8th day of May, 1931, the above-entitled court made and entered its final judgment

and order denying the petition for a writ of habeas corpus, as prayed for, on file herein, in which said judgment and order, in the above-entitled proceeding, certain errors were made to the prejudice of the petitioner and appellant herein, all of which will more fully appear from the assignment of errors filed herewith.

WHEREFORE, this petitioner and appellant prays that an appeal may be granted in his behalf to the Circuit Court of Appeals for the Ninth Circuit, for the correction of the errors so complained of, and further that a transcript of the record, proceedings and papers in the above-entitled cause, as shown by the praecipe, duly authenticated, may be sent and transmitted to the said Circuit Court of Appeals; and further, that the said petitioner and appellant be held within the jurisdiction of this court during the pendency of the appeal, [29] so that he may be produced in execution of whatever judgment may be finally entered herein, and that the petitioner and appellant be released on bail, in an amount to be fixed by this court, pending the final disposition of said appeal.

Dated this 15th day of May, 1931.

R. W. CANTRELL,
GUY C. CALDEN,

Attorneys for Petitioner and Appellant.

[Endorsed]: Filed May 15, 1931. [30]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Now comes Masuda Tatsumi, or Tatsumi, or Takashi Masuda, whose true name is Tatsumi Masuda, the petitioner and appellant herein, by his attorneys, in connection with the petition for an appeal herein, and assigns the following errors which he avers accrued upon the hearing of the above-entitled cause, and upon which he will rely upon appeal, to the Circuit Court of Appeals, for the Ninth Circuit, to wit:

I.

That the Court erred in denying the petition for a writ of habeas corpus herein, and remanding the petitioner and appellant to the Immigration Authorities for deportation.

II.

That the Court erred in holding that it had no jurisdiction to issue a writ of habeas corpus, as prayed for in the petition herein.

III.

That the Court erred in holding that the allegations of the petition were not sufficient to justify the issuance [31] of a writ of habeas corpus, as prayed for in said petition, and in remanding the petitioner and appellant to the Immigration Authorities for deportation.

IV.

That the Court erred in holding that the allegations contained in the petition herein, for a writ of habeas corpus, and the facts presented upon the issue made and joined herein, were insufficient in law, to justify the discharge of the petitioner and appellant from custody, as prayed for in said petition.

V.

That the Court erred in holding that the decision of the Secretary of Labor, that the petitioner and appellant is in the United States in violation of the Immigration Act of 1924, is not erroneous in law, and that the said Secretary of Labor, has not misconstrued the Treaty and Immigration Laws referred to in said petition.

VI.

That the Court erred in holding that the imprisonment and detention of petitioner and appellant are legal.

VII.

That the Court erred in holding that the Secretary of Labor, had jurisdiction, under the laws of the United States, to issue the warrant of deportation, as referred to in said petition.

VIII.

That the Court erred in holding that the petitioner and appellant is not entitled to a treaty trader status, under and by virtue of section 3, subdivision 6 of the Immigration Act of 1924, and under and by authority of [32] Article 1 of the

Treaty of Commerce and Navigation, entered into between the United States of America, and the Empire of Japan, on the 21st day of February, 1911, as referred to in said petition.

IX.

That the Court erred in holding that the petitioner and appellant, the duly appointed agent of a treaty trader, lawfully domiciled and residing within the United States, under and pursuant to the provisions of the Treaty of Commerce and Navigation entered into between the United States, and the Empire of Japan, on the 21st day of February, 1911, was not entitled to remain within the United States during the period that such status continued.

X.

That the Court erred in holding that a treaty trader and pursuant to the provisions of Article 1 of the said Treaty, while lawfully domiciled within continental United States, was prohibited, under the laws of the United States, from employing, as the agent of his choice, the *petition* and appellant, as manager of the business of such treaty trader conducted and maintained within continental United States.

XI.

That the Court erred in holding that under and by virtue of the provisions of the Treaty of Commerce and Navigation, entered into between the United States of America, and the Empire of Japan, on the 21st day of February, 1911, and under and by authority of the Immigration Act of

1924, the petitioner and appellant, who was lawfully admitted to the United States, did not have the legal right, pursuant to the [33] laws of the United States, and of the said Treaty, to, in good faith, change his status from that of a temporary visitor, under the provisions of subdivision 2 of section 3, of the Immigration Act of 1924, to the temporary status of a treaty trader, under and pursuant to the provisions of subdivision 6 of section 3 of the Immigration Act of 1924, and to continue to lawfully reside within the United States during the period that the petitioner and appellant maintains, and continues to maintain, such temporary status as a treaty trader.

XII.

That the Court erred in holding that the petitioner and appellant, after lawful admission into the United States, by changing, in good faith, his status from that of a temporary visitor, to that of a treaty trader, violated the laws of the United States, and that in consequence the Secretary of Labor had authority, in law, to order the deportation, and deport, *petition* and appellant, because of such change of status.

XIII.

That the Court erred in holding that the petitioner and appellant, after lawful admission into continental United States, by changing, in good faith, his status from that of a temporary visitor, under the provisions of subdivision 2 of Section 3 of the Immigration Act of 1924, to that of a treaty

trader, under the provisions of subdivision 6 of Section 3 of said Act, thereby conclusively evidenced his intention of abandoning his status as an alien entitled to temporarily reside within continental United States, as a nonimmigrant, to that of an immigrant for permanent residence within the United States.

XIV.

That the judgment and order made and entered herein [34] was, and is, contrary to law.

XV.

That the judgment and order made and entered herein was, and is, contrary to the sworn allegations of the petition for a writ of habeas corpus.

XVI.

That the judgment made and entered herein was not supported by the evidence.

XVII.

That the judgment made and entered herein is contrary to the evidence.

WHEREFORE, the petitioner and appellant prays that the final judgment and order of the Southern Division of the United States District Court, for the Northern District of California, made and entered herein, on the 8th day of May, 1931, denying the petition for a writ of habeas corpus, and dismissing the said petition, and discharging the order to show cause, heretofore issued herein, why the writ of habeas corpus should not issue on the allegations of said petition, and remanding the

petitioner and appellant to the Immigration Authorities for deportation, be reversed, and that this cause be remitted to the lower court, with instructions to issue a writ of habeas corpus, as prayed for in said petition.

Dated at San Francisco, California, this 15th day of May, 1931.

R. W. CANTRELL,
GUY C. CALDEN,

Attorneys for Petitioner and Appellant.

[Endorsed]: Filed May 15, 1931. [35]

[Title of Court and Cause.]

ORDER ALLOWING PETITION FOR AP-
PEAL AND BAIL.

On this 15th day of May, 1931, comes Masuda Tatsumi, or Tatsumi or Takashi Masuda, whose true name is Tatsumi Masuda, by his attorneys, and having previously filed herein, his petition for an appeal, together with an assignment of errors, as provided by law, did present to this Court, his petition praying for the allowance of an appeal to the Circuit Court of Appeals for the Ninth Circuit, from the final judgment and order of this Court, duly given, made and entered on the 8th day of May, 1931, denying the application of petitioner and appellant for a writ of habeas corpus, and remanding the petitioner and appellant to the Immigration Authorities for deportation, intending to be urged and prosecuted by him, and praying also

that a transcript of the record and proceedings and papers upon which the said final judgment and order herein was rendered, duly authenticated, may be sent and transmitted to the said Circuit Court of Appeals, and that such other and further proceedings may be had in the premises as may seem proper.

ON CONSIDERATION WHEREOF, the Court allows the appeal hereby prayed for, and orders execution and remand [36] stayed pending the hearing of the said cause in the said Circuit Court of Appeals for the Ninth Circuit; and

IT IS FURTHER ORDERED that pending said appeal the petitioner and appellant be released on bail, on the execution of a bond in the sum of \$1,000.00, to be conditioned as required by law, with sureties to be approved by a Commissioner of this court.

Dated at San Francisco, California, this 15th day of May, 1931.

FRANK H. KERRIGAN,
United States District Judge.

[Indorsed]: Filed May 15, 1931. [37]

BOND FOR COSTS ON APPEAL.

HABEAS CORPUS.

No. 20,449-S.

KNOW ALL MEN BY THESE PRESENTS that we, Masuda Tatsumi, or Tatsumi or Takashi Masuda, whose true name is Tatsumi Masuda, as principal, and New Amsterdam Casualty Company,

as surety, are held and firmly bound unto United States of America in the full and just sum of Two Hundred Fifty (\$250.00) Dollars, to be paid to the said United States of America, its certain attorney, executors, administrators or assigns; to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals and dated this 15th day of May in the year of our Lord one thousand nine hundred and thirty-one.

WHEREAS, lately at a District Court of the United States for the Northern District of California, in a suit depending in said court, in the matter of Masuda Tatsumi or Tatsumi or Takashi Masuda, whose true name is Tatsumi Masuda, on Habeas Corpus, No. 20,449-S. a judgment and sentence was rendered against the said Masuda Tatsumi, or Tatsumi or Takashi Masuda, whose true name is Tatsumi Masudi, and the said Masuda Tatsumi or Tatsumi or Takashi Masuda, true name Tatsumi Masuda, having obtained from said court an order granting an appeal to reverse the judgment and sentence in the aforesaid suit, and a citation directed to *the* John D. Nagle, Esq., Commissioner of Immigration, San Francisco, California, citing and admonishing him to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be holden at San Francisco, in the State of California,—

Now, the condition of the above obligation is such, that if the said Masuda Tatsumi or Tatsumi or

Takashi Masuda, true name Tatsumi Masuda, shall prosecute to effect, and answer all costs if he fails to make his plea good, then the above obligation to be void; else to remain in full force and virtue. [38]

This recognizance shall be deemed and construed to contain the "Express agreement" for summary judgment and execution thereon, mentioned in Rule 34 of the District Court.

TATSUMI MASUDA, (Seal)
1025 Front St., Sacto.

NEW AMSTERDAM CASUALTY CO. (Seal)
[Seal] By GEO. W. POULTNEY,
Attorney-in-fact.

Acknowledged before me the day and year first above written.

ERNEST E. WILLIAMS, (Seal)
U. S. Commissioner Northern District of California at S. F.

[Endorsed]: Filed May 13, 1931, 2:11 P. M.
[39]

[Title of Court and Cause.]

ORDER TRANSMITTING ORIGINAL RECORD.

On motion of R. W. Cantrell, Esq., one of the attorneys for the petitioner and appellant, and good cause appearing therefor,—

IT IS HEREBY ORDERED that the original certified record of the immigration proceedings, before the Bureau of Immigration, and Department

of Labor, in the above-entitled cause, now on file, in the Clerk's office, be transmitted to the United States Circuit of Appeals, for the Ninth Circuit.

IT IS FURTHER ORDERED that the said original certified record need not be incorporated in the printed transcript on appeal herein.

Dated at San Francisco, California, this 15th day of May, 1931.

FRANK H. KERRIGAN,
United States District Judge.

[Endorsed]: Filed May 15, 1931. [40]

[Title of Court and Cause.]

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of Said Court:

Sir: Please prepare transcript on appeal in the above-entitled cause, to be composed of the following papers, to wit:

1. Petition for writ of habeas corpus.
2. Order to show cause, issued on December 6th, 1930.
3. Appearance of respondent.
4. Minute order, dated January 19th, 1931, submitting cause on briefs.
5. Minute order dated February 16th, 1931, ordering cause submitted for decision.
6. Order dated May 8th, 1931, denying application for writ of habeas corpus; dismissing order to show cause, and remanding peti-

tioner to the custody of the immigration authorities for deportation.

7. Opinion of the Court filed in support of said order, dated May 8th, 1931.
8. Petition for appeal.
9. Order allowing petition for appeal.
10. Assignment of errors.
11. Cost bond on appeal.
12. Order dated May 15, 1931.

R. W. CANTRELL,
GUY C. CALDEN,

Attorneys for Petitioner and Appellant.

[Endorsed]: Filed May 15, 1931. [41]

[Title of Court.]

CERTIFICATE OF CLERK U. S. DISTRICT
COURT TO TRANSCRIPT OF RECORD.

I, Walter B. Maling, Clerk of the United States District Court, for the Northern District of California, do hereby certify that the foregoing 41 pages, numbered from 1 to 41, inclusive, contain a full, true, and correct transcript of the records and proceedings in the Matter of Masuda Tatsumi, etc., on habeas corpus, No. 20,449-S. as the same now remain on file and of record in my office.

I further certify that the cost of preparing and certifying the foregoing transcript of record on appeal is the sum of Sixteen Dollars (\$16.00), and that the said amount has been paid to me by the attorney for the appellant herein.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, this 8th day of June, A. D. 1931.

[Seal]

WALTER B. MALING,

Clerk.

By C. M. Taylor,

Deputy Clerk. [42]

[Title of Court and Cause.]

CITATION ON APPEAL.

United States of America,—ss.

The President of the United States, to JOHN D. NAGLE, Commissioner of Immigration, San Francisco, California, and United States Attorney for Northern District of California, San Francisco, California, GREETING:

YOU ARE HEREBY CITED AND ADMONISHED to be and appear at a United States Circuit Court of Appeals for the Ninth Circuit, to be held at the City and County of San Francisco, in the State of California, within thirty days from the date hereof, pursuant to an order allowing an appeal, of record in the Clerk's office of the United States District Court for the Northern District of California, Southern Division, wherein Masuda Tatsumi, or Tatsumi, or Takashi Masuda, whose true name is Tatsumi Masuda, is appellant and you are appellee, to show cause, if any there be, why the decree rendered against the said appellant as in the said order allowing appeal mentioned, should not be cor-

rected, and why speedy justice should not be done to the parties in that behalf.

WITNESS, the Honorable A. F. ST. SURE, United States [43] District Judge for the Northern District of California, Southern Division, this 15th day of May, A. D. 1931.

FRANK H. KERRIGAN,
United States District Judge.

Service of the within citation on appeal and receipt of a copy is hereby admitted this 15 day of May, 1931.

GEO. J. HATFIELD,
United States Attorney,
V. de ZP.

[Endorsed]: Filed May 15, 1931, 10:22 A. M.
[44]

[Endorsed]: No. 6538. United States Circuit Court of Appeals for the Ninth Circuit. Tatsumi Masuda, or Takashi Masuda, or Masuda Tatsumi, Appellant, vs. John D. Nagle, as Commissioner of Immigration at the Port of San Francisco, California, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Northern District of California, Southern Division.

Filed July 25, 1931.

PAUL P. O'BRIEN,
Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Frank H. Schmid,
Deputy Clerk.

